

1 anything about it but that he would look into it, or that
2 she was to call Clay Pendarvis and he would look into it.

3 Q And then did she call you back when Mr. Pendarvis
4 had spoken with her?

5 A Yes, she did.

6 Q And she told you that Mr. Pendarvis had spoken
7 with her at Mr. Stewart's request?

8 A Yes, she did.

9 Q When you spoke with Ms. Cook -- strike that.

10 So do I understand correctly then that there were
11 at least three conversations with Ms. Cook during this
12 period of time which would be June 28 - June 29? Your call
13 to her, her call back after Roy Stewart's conversation with
14 her, and her call back to you after Clay Pendarvis's
15 conversation.

16 Is that an accurate characterization?

17 A Those would be -- those were certainly calls that
18 I recall.

19 Q During any of those calls, during any of these
20 three conversation with Ms. Cook did you mention to her the
21 Commission's ex parte rules or their possible applicability
22 to this proceeding?

23 A I did not.

24 Q Did you mention to her the Managing Director's
25 letter to Mr. Daniels?

1 A I did not.

2 Q Did you speak with Ms. Cook after that third
3 conversation that you've just described between you and her
4 where she related to you that Mr. Pendarvis had called her
5 back during the period of time June 28 through July 1, 1993?

6 A Well, I certainly spoke to her after --I probably
7 spoke to her after the meeting and said that we had the
8 meeting.

9 Q Okay. Did she know you were going to have a
10 meeting?

11 MR. EISEN: Objection. The question is was she
12 aware from Ms. Polivy is one thing, but she can't tell --

13 JUDGE CHACHKIN: Do you want to rephrase the
14 question?

15 MR. COLE: No, I will come at it from a different
16 direction, Your Honor.

17 BY MR. COLE:

18 Q After you spoke with Ms. Cook and she told you
19 that Mr. Pendarvis called her back, it was you that then
20 called Mr. Stewart to arrange for ma meeting?

21 A I think actually I had called Mr. Stewart before
22 she called me back and told me about her conversation with
23 Mr. Pendarvis. In fact, I'm sure that I called him before.

24 Q Well, let me refer you to the Renouf & Polivy
25 billing ledger, which is Press Exhibit No. 2, and point out

1 that the line entries, at least as I read them, for the
2 period of time June 28 through June 30, 1993, reflect three
3 telephone conversations with Ms. Cook on the 28th, two
4 telephone conversations with Ms. Cook on the 28th, no
5 telephone conversations with Ms. Cook on the 30th, but two
6 conversations with Mr. Pendarvis and one conversation with
7 Mr. Stewart on the 30th.

8 Does that refresh your recollection?

9 A About what?

10 Q About whether or not you spoke with Mr. Stewart
11 and attempted to arrange a meeting with him after hearing
12 from Ms. Cook that she had spoken with both him and Mr.
13 Pendarvis.

14 A My recollection is that I had called Mr. Stewart
15 before I heard back from Ms. Cook. I could be wrong, but
16 that is my recollection.

17 Q And am I correct that when you first tried to call
18 Mr. Stewart you could not get through to him?

19 A Yes.

20 Q And so you called Mr. Pendarvis; isn't that
21 correct?

22 A That I do not have a specific recollection of
23 that, but I did call both to set up a meeting. I can't tell
24 you in which order I called them. It could easily have been
25 I called Mr. Pendarvis and then I called Mr. Stewart, or I

1 called Mr. Stewart and then I called Mr. Pendarvis.

2 MR. COLE: Just one moment, Your Honor. I want to
3 find something.

4 (Pause.)

5 BY MR. COLE:

6 Q When you finally did speak with Mr. Pendarvis am I
7 correct that you set up a meeting with him?

8 A Yes.

9 Q And am I correct that Mr. Stewart called you back
10 at that point?

11 A Subsequent to that, yes.

12 Q And that's when Mr. Stewart said to you let's have
13 the meeting in my office instead?

14 A Yes. That was the substance of the conversation.

15 Q So if that was the order in which those calls
16 occurred, am I not correct that you would have called Mr.
17 Stewart, left a message; not hearing back from him called
18 Mr. Pendarvis and made the arrangements for the meeting; Mr.
19 Stewart then calls back and in effect supersedes those
20 arrangements?

21 A All I can say is is that would be a possible
22 interpretation. I do not have a specific recollection of
23 that.

24 I did call Mr. Stewart. I did not get him. I did
25 call Mr. Pendarvis. I did set up a meeting. Mr. Stewart

1 did call back and suggested that we merge it into one
2 meeting in his office.

3 But as to whether I called Mr. Pendarvis first and
4 he got back to me later, I do not have a recollection.

5 MR. COLE: Your Honor, may I approach the witness?
6 I would like to try to refresh your recollection with here
7 deposition.

8 JUDGE CHACHKIN: Go ahead.

9 BY MR. COLE:

10 Q Ms. Polivy, do you recall on May 30th of this year
11 you were deposed for this proceeding?

12 A Yes, I do.

13 Q And I am going to show you a copy of the
14 transcript of your deposition.

15 MR. COLE: And, counsel, so you can follow along,
16 I am referring to page 39 --

17 MR. EISEN: Thank you.

18 MR. COLE: -- of her deposition transcript.

19 BY MR. COLE:

20 Q Please review the first question on page 39 -- the
21 first answer on page 39.

22 A Um-hmm.

23 Q Does that refresh your recollection?

24 A Yeah, I think that that's -- that is substantially
25 my recollection.

1 Q And let me just read that into the record so we
2 will know, or if you would like to do it.

3 "My recollection is that I had a call into Roy
4 Stewart before I spoke to Pendarvis. When I spoke to
5 Pendarvis the first time, I scheduled a meeting with him.
6 In the meantime Mr. Stewart called back and said he would
7 meet, and why didn't we -- I told him I had already
8 scheduled a meeting with Pendarvis. And he said, 'Well, why
9 don't we all meet in my office. Call Clay back and see if
10 the time is okay for him,' which is what I did."

11 That was your testimony during your deposition?

12 A Yes, it is.

13 Q And is it your testimony today that that was
14 accurate testimony or has your recollection changed at all?

15 A No. To the best of my knowledge, it's accurate
16 today.

17 Q Can you tell me why you called Mr. Pendarvis when
18 you could not get through to Mr. Stewart?

19 A No, other than Mr. Pendarvis was somebody who was
20 involved in it as well.

21 Q Ms. Kreisman signed the letter; isn't that
22 correct?

23 A Yes.

24 Q And Ms. Kreisman is the Video Services' Division
25 Chief; isn't that correct?

1 A Correct.

2 Q And the Video Services Division, as I understand
3 the FCC's organization, is the superior office to the
4 television branch where Mr. Pendarvis was?

5 A Yes, but Mr. Pendarvis is the person who is in
6 charge of the television branch.

7 Q But Mr. Pendarvis was not in a position to
8 countermand Ms. Kreisman's letter was he?

9 A Well --

10 MR. EISEN: Objection. What's the point of the
11 question?

12 JUDGE CHACHKIN: Trying to find -- well, I will
13 overrule your objection.

14 Go ahead. You can answer the question.

15 THE WITNESS: Well, the fact of the matter is that
16 he is the one who reviews it, and Ms. Kreisman, while she
17 signed the letter as the chief of the Audio Services
18 Division, may not have been involved in it. He would have
19 been the one who was, as far as I knew, the next up in the
20 chain of command, because I know that the letter had been
21 drafted by Mr. Gordon. It just seemed the logical person to
22 try to meet with.

23 BY MR. COLE:

24 Q Ms. Polivy, let me show you --

25 MR. COLE: Your Honor, may I approach?

1 JUDGE CHACHKIN: Go ahead.

2 MR. COLE: I want to show you your deposition
3 testimony again. And, counsel, I am referring to page 40.
4 I'm sorry. I am referring yet to page 39 where you were
5 asked the question, "Why did you try to set the meeting with
6 Mr. Pendarvis?"

7 Answer: "Well, because he was the chief of the
8 television branch."

9 Question: "But the chief of the Video Services
10 Division had written the letter; isn't that correct?"

11 Answer: "My recollection is that Barbara Kreisman
12 wasn't in town for some reason, but I don't have a specific
13 recollection, but I did call Clay."

14 BY MR. COLE:

15 Q Does that refresh your recollection at all as to
16 why you did not call Ms. Kreisman?

17 A Well, I wasn't sure when you asked me the question
18 in the deposition, and I'm still not. It's somewhere in the
19 back of my mind was a thought that she was out of town. But
20 I didn't have a specific recollection of that.

21 Q Do you know if you would have tried to call her
22 first, Ms. Kreisman first, before you would have called Mr.
23 Pendarvis?

24 MR. EISEN: Objection.

25 THE WITNESS: I did not try.

1 BY MR. COLE:

2 Q You did not try?

3 MR. EISEN: It calls for a speculative answer.
4 It's not going to advance the record why.

5 JUDGE CHACHKIN: All right, the witness has
6 answered the question. Let's proceed.

7 MR. COLE: Thank you, Your Honor.

8 Excuse me, Your Honor.

9 (Pause.)

10 BY MR. COLE:

11 Q Ms. Polivy, do you recall in August of 1993 being
12 interviewed by a representative of the Office of the
13 Inspector General of the Federal Communications Commission?

14 A Yes, I do.

15 Q And that interview concerned the Rainbow
16 applications and allegations of ex parte violations; is that
17 correct, to the best of your recollection?

18 A My understanding was that that interview concerned
19 the possibility that the FCC staff had violated the ex parte
20 rules.

21 Q Do you recall being asked by Mr. Andary, who was
22 the Office of Inspector General's representative conducting
23 the interview --

24 JUDGE CHACHKIN: Do you want to spell his name?

25 MR. COLE: A-N-D-A-R-Y. Robert G. Andary.

1 BY MR. COLE:

2 Q Whether after you spoke with Ms. Cook she had ever
3 gotten back to you, do you recall being asked that?

4 A No, I don't.

5 Q And do you recall advising Mr. Andary that you had
6 no idea who Ms. Cook talked to at the FCC, but thought that
7 it might have been Rod Porter?

8 A At the time I thought it was Rod Porter, as I
9 recall. And I later found out that it wasn't.

10 Q But you have already testified that Ms. Cook told
11 you on June 28 or June 29 that she had spoken to Stewart and
12 Pendarvis, haven't you?

13 A No, Ms. Cook told me subsequently. At the time I
14 thought it was Rod Porter that she had spoken to.

15 Q Excuse me. You have not testified this morning
16 that Ms. Cook called you back immediately after speaking
17 with Mr. Stewart and told you that Mr. Stewart and spoken
18 with her?

19 A I don't know whether she called me back
20 immediately after she spoke to Mr. Stewart or not. I said
21 that she did call me back, and told me -- she did tell me
22 that she had spoken to Mr. Stewart. I didn't know that it
23 was Clay Pendarvis that she had spoken to. Then very
24 subsequently found out that it was. I didn't consider it a
25 big deal because I thought it was Rod Porter and it turned

1 out to be Clay Pendarvis. I found that out subsequent to my
2 interview with the IG.

3 So to the extent that you have testified several
4 times today that Ms. Cook called you back on the 28th or
5 29th and advised you that Mr. -- that she had spoken to Mr.
6 Pendarvis, you are now withdrawing that testimony; is that
7 correct?

8 MR. EISEN: Objection, Your Honor. She hasn't
9 withdrawn the testimony. She has explained what she meant
10 in response to the question.

11 MR. COLE: Well, Your Honor, with all due respect,
12 she has testified several times that I have heard that Ms.
13 Cook called her back on the 28th or 29th, those are the
14 three phone calls that we have discussed several times, and
15 told her that she had spoken to Mr. Pendarvis.

16 Now, she is telling me right now that she didn't
17 know that. And I am trying to find out exactly what the
18 nature of her testimony really is on this point.

19 JUDGE CHACKIN: I will overrule the objection.

20 THE WITNESS: Well, Mr. Cole, at the time I am
21 sure I knew. I am sure at the time that the IG interviewed
22 me it was my recollection it was Rod Porter. I subsequently
23 found out that what I thought was Rod Porter was Clay
24 Pendarvis.

25 Now, basically I am sure I knew at the time. When

1 I spoke to the IG, that was my recollection. I now know I
2 was wrong.

3 BY MR. COLE:

4 Q After you had arranged -- strike that.

5 Am I correct that the meeting in Mr. Stewart's
6 office had been arranged as of June 30, 1993, or sometime on
7 June 30, 1993?

8 A I am not sure whether the meeting was arranged, it
9 was arranged by the 30th. On the 30th we knew we knew we
10 were going to meet on the 1st.

11 Q Did you speak with Ms. Cook after you had arranged
12 for the meeting with Mr. Stewart and Mr. Pendarvis?

13 A I don't think so. I think I spoke to her at some
14 point, I think I spoke to her before the meeting actually.

15 Q Yes, but after it was -- my question was not
16 whether it was before the meeting or after the meeting.

17 Did you speak with her after the meeting was
18 arranged, but before the meeting occurred?

19 I am sorry. I was imprecise and I apologize.

20 A I don't have a specific recollection of it. I
21 spoke to -- I spoke to her before the meeting was held, but
22 I do not recall whether I spoke to her before -- before the
23 meeting was arranged or after the meeting took place. I
24 arranged the meeting. She didn't.

25 Q Do you have a copy of Press Exhibit No. 4, which

1 is the telephone bill, in front of you?

2 A Yes.

3 Q Let me direct your attention, ma'am, to the line
4 entry for June 30.

5 Do you see that?

6 A Yes, I do.

7 Q Am I correct in reading that that reflects a nine
8 minute and 48 second telephone call from your law firm to
9 Ms. Cook's number?

10 A Yes, it does.

11 Q Would that have been a substantive telephone
12 conversation about the meeting?

13 A I don't -- I don't know.

14 Q Were you involved in any other matters which would
15 have caused you to call Ms. Cook on June 30th and speak for
16 10 minutes?

17 A Well, she is a friend.

18 When you say -- when you ask about was that
19 involved with the meeting, she had no involvement with the
20 meeting. So if it -- it was a phone call in which I told
21 her the meeting was going to take place, that certainly
22 could have happened on the 30th.

23 Q And then just to wrap up on your telephone bill.
24 I believe you testified that your recollection was that you
25 may have called her after the meeting had occurred to report

1 to her that the meeting had occurred; is that your
2 testimony?

3 A Yes.

4 Q And would that be, or could that be the July 1
5 entry on this phone bill?

6 A It could.

7 Q Although do you recall speaking with her or
8 leaving a message to that effect?

9 A I don't recall, but 30 seconds would suggest to me
10 that I left a message.

11 Q But she then could have returned the call, and we
12 would have no documented record -- documentation on that; is
13 that correct?

14 A She could have. I don't have a recollection for
15 her returning the call.

16 Q Now, if you could refer to page 3 of the billing
17 ledger, which is Exhibit No. 2, Press Exhibit No. 2, the top
18 line for August 2nd, and, again, the date -- the year in the
19 upper left-hand column may be obscured, but I believe we can
20 all stipulate it was 1993.

21 Do you see that line?

22 A Yes.

23 Q Do you see the final entry on that line which I
24 believe we established in the deposition stood for T-C and
25 then one-half?

1 A That's Toni Cook, one half.

2 Q That is Tony Cook, one half.

3 Do you recall speaking with Ms. Cook on August 2,
4 1993?

5 A I don't have a specific recollection, but I'm sure
6 I called her to tell her that we had received the
7 reconsideration.

8 Q Now, this morning you testified about your
9 conversation with Mr. Pendarvis in connection with setting
10 up the meeting. And my recollection of your testimony, and,
11 again, please correct me if I'm wrong, I am not trying to
12 mischaracterize it, is that at some point during that
13 conversation you -- strike that -- Mr. Pendarvis asked you
14 what was pending.

15 Is that your testimony?

16 A No. He asked me if there had been any objections.

17 Q If there had been any objections.

18 And your response was what, please?

19 A I told him that, yes, Press had filed an informal
20 objection. It was late. They filed a reconsideration to
21 the informal objection, and then they filed an informal
22 objection to the sixth extension, and they filed informal
23 objections to everything else that we filed.

24 Q I'm sorry. Could you --

25 A They filed an informal objection to everything

1 else we filed.

2 Q No, I just want to hear your characterization of
3 the reconsideration, Press's petition for reconsideration,
4 please?

5 A They filed a -- they filed the informal objection
6 that was late. They filed a reconsideration of the informal
7 objection, and they filed an informal objection to the sixth
8 extension.

9 Q In your view, was that an accurate
10 characterization of Press's petition for reconsideration?

11 A Yes.

12 Q Had any action been taken on Press's informal
13 objection up to that point?

14 I'm sorry.

15 As of the date of filing of Press's petition for
16 reconsideration, which was February 25, 1991, had any action
17 been taken on Press's informal objection which had been
18 filed on February 15, 1991?

19 A No, I'm sorry. I am having a problem with dates.

20 Q You have Press on February 15, 1991, filed an
21 informal objection.

22 A Correct.

23 Q Ten days later Press filed its petition for
24 reconsideration.

25 A Of the informal objection, correct.

1 Q Well, that's what I am getting to.

2 Your characterization of Press's petition for
3 reconsideration being seeking reconsideration of the
4 informal objection, all right?

5 No action had been taken on the informal
6 objection, had it, as of the date of Press's petition for
7 reconsideration?

8 A When I spoke to Mr. Pendarvis in June of 1993, the
9 staff had acted on the extensions to which those were
10 addressed.

11 Q But we are focusing now on your characterization
12 of Press's petition for reconsideration, all right, which
13 you have characterized as seeking reconsideration of the
14 informal objection.

15 Is that your characterization?

16 A Are you asking me specifically what I said to Mr.
17 Pendarvis?

18 Q No, I am asking you whether that's your
19 characterization of it now, and that certainly, I believe,
20 is consistent with the way you have characterized it -- you
21 have described your conversation with Mr. Pendarvis, but I
22 want to get at it right now just to make sure we understand
23 what we are talking about.

24 Did you -- is it your view and did you -- strike
25 that.

1 Is it your view that Press's petition for
2 reconsideration sought reconsideration of the informal
3 objection?

4 A Press, in its petition for reconsideration, sought
5 to incorporate by reference and bring to the Commission's
6 attention its -- the matters of its informal objection
7 because it had late filed the informal objection. That was
8 my understanding of what the petition for reconsideration
9 was.

10 Q So would it be correct to say that Press's
11 petition for reconsideration sought reconsideration of the
12 grant of Rainbow's application?

13 A Yes, certainly.

14 Q Do you recall whether you mentioned that to Mr.
15 Pendarvis during your conversation in June of 1993?

16 A Well, since we were talking about whether there
17 were objections to the extension applications that Rainbow
18 filed, I am quite confident he understood what I was talking
19 about.

20 Q About how long was that conversation with Mr.
21 Pendarvis?

22 A Very brief. I would say two minutes.
23 Conversations with Mr. Pendarvis are not all that long.

24 MR. COLE: Your Honor, if I may approach the
25 witness one more time with her deposition testimony.

1 JUDGE CHACHKIN: Go ahead.

2 MR. COLE: Thank you.

3 Counsel, I am referring to page 18 of Ms. Polivy's
4 deposition. And specifically from line 20 on page 18 down
5 to line -- through line 20.

6 MR. EISEN: I'm sorry, Mr. Cole.

7 Would you reference the lines again?

8 MR. COLE: Sure. Page 18, lines 20 through page
9 19 -- I apologize.

10 BY MR. COLE:

11 Q Was that your testimony you gave during the
12 deposition?

13 A Yes.

14 Q During that deposition you were asked to describe
15 the conversation with Mr. Pendarvis; is that correct?

16 A I'm sorry, I have --

17 (Pause.)

18 THE WITNESS: Yes, it was.

19 BY MR. COLE:

20 Q And am I correct that in characterizing or
21 describing that conversation you said, "All of this took
22 about 10 seconds because that's as long as Clay's attention
23 span, I think, lasts"?

24 A I did say that, but all of this dealt with the
25 opposition that had been filed.

1 Q Correct.

2 A Not the length of the conversation.

3 Q I understand.

4 So your discussion with respect to the opposition
5 that were filed lasted --

6 A My description, listed about 10 seconds.

7 Q Ms. Polivy, in any conversation that you've ever
8 had with any member of the FCC staff concerning the Rainbow
9 applications prior to July 1 -- prior to July 2, I'm sorry,
10 1993, did you ever mention anything about the Managing
11 Director's letter to Mr. Daniels?

12 A Not to my recollection.

13 Q In any conversation with any member of the FCC
14 staff concerning the RBC applications prior to July 2, 1993,
15 did you ever mention anything specifically about the ex
16 parte rules?

17 A With the exception of the tangential discussion
18 that I had with -- that we talked about with Clay Pendarvis,
19 and I may have had the same conversation brief kind of
20 conversation with Roy Stewart, no.

21 Q But as I understand your testimony on those, and
22 please correct me if I am wrong, you didn't say "ex parte
23 rules." You didn't articulate the words "ex parte rules"
24 during either of those conversations?

25 A No, I did not.

1 Q And neither Mr. Pendarvis, or if you had the same
2 conversation with Mr. Stewart, Mr. Stewart, neither of them
3 said "ex parte rules" to you; is that correct?

4 A Yes, that's correct. That is correct.

5 Q And in any conversation that you had with any
6 member of the FCC staff concerning the RBC applications
7 prior to July 2, 1993, did you ever mention anything about
8 the applicability of the ex parte rules, again, using the
9 term "ex parte rules"?

10 A No, I did not.

11 Q And in any conversation with any members of the
12 FCC staff concerning the RBC applications prior to July 2,
13 1993, did any staff member ever say anything to you about
14 the ex parte rules, again using the term "ex parte rules"?

15 A No.

16 Q And in any conversation with any member of the FCC
17 staff concerning the RBC applications prior to July 2, 1993,
18 did any staff member ever say anything to you about the
19 applicability of the ex parte rules to the RBC applications,
20 again using the term "ex parte rules"?

21 A I'm sorry.

22 Could you repeat that question?

23 Q Sure.

24 In any conversation with any member of the FCC
25 staff concerning the RBC applications prior to July 2, 1993,

1 did any FCC staff member ever say anything to you about the
2 applicability of the ex parte rules to the Rainbow
3 applications using the term "ex parte rules"?

4 A No.

5 Q Thank you.

6 I believe you testified this morning that in the
7 July 1 meeting in Mr. Stewart's office the staff recommended
8 that you file a petition for reconsideration; is that
9 correct?

10 A I believe Mr. Stewart did.

11 Q Mr. Stewart did.

12 But you already knew that you could file a
13 petition for reconsideration, isn't that correct?

14 A Yes.

15 Q Ms. Polivy, I have one last area to review with
16 you.

17 In August of 1993, was it Rainbow's position that
18 the Rainbow applications were a restricted proceeding within
19 the meaning of the ex parte rules?

20 A As to whom?

21 Q As to anyone.

22 A Well, in August of 1993, as I recall, I have to go
23 over the dates, I wouldn't know what the status of the
24 proceeding was, to tell you the truth, I believe in August
25 of 1993 the reconsideration had been granted.

1 Q That's correct.

2 A So you are asking me was it a restricted
3 proceeding?

4 Q No, in August of 1993, was it Rainbow's position
5 that as of -- I apologize, I inartfully asked the question.

6 In August of 1993, was it Rainbow's position that
7 as of July 1, 1993, the Rainbow proceeding had been
8 restricted?

9 MR. EISEN: I object to that question on grounds
10 of relevance. The question that's proper here is whether on
11 July 1, 1993, Ms. Polivy believed that this was in violation
12 of the ex parte rules. What happened after the
13 reconsideration was granted is irrelevant to the issues.

14 JUDGE CHACHKIN: All right.

15 MR. COLE: Your Honor, I -- I would like to show
16 the -- I'm sorry.

17 BY MR. COLE:

18 Q Did I get an answer to that question?

19 A I don't know. I don't recall what my thinking
20 was.

21 MR. COLE: Let me try to refresh your recollection
22 with a document which I would like to have marked for
23 identification as Press Exhibit No. 5. And I am providing
24 Ms. Farhat with copies for distribution within the
25 courtroom.

1 This is a document which is eight pages in length
2 with an unnumbered, unpaginated cover page with the title
3 "Ms. Polivy Broadcasting Hearing Exhibit No. 5. 'Rainbow
4 Opposition to Press Emergency Petition,'" filed with the
5 Commission on August 26, 1993.

6 BY MR. COLE:

7 Q Could you please review that.

8 JUDGE CHACKIN: The document described will be
9 marked for identification as Press Exhibit 5.

10 MR. COLE: Thank you, Your Honor.

11 (The document referred to was
12 marked for identification as
13 Press Exhibit No. 5.)

14 BY MR. COLE:

15 Q And I wanted to refer your attention, Ms. Polivy,
16 particularly to page 3, the sentence which begins in the
17 middle of that paragraph, which reads as follows: "As Press
18 correctly notes, citing a letter from the Managing Director
19 to the author of a letter commenting on an earlier Rainbow
20 extension request, the present situation fits into the third
21 category, restricted proceedings."

22 Do you see that language?

23 A Yes, I see it.

24 Do you mind if I read it?

25 Q No, take your time. Read as much as you want.

1 This came from your law firm, did it not?

2 A It did, but I did not write the pleading so I
3 would like to read it.

4 Q Good.

5 (Witness reads document.)

6 MR. COLE: And again, Your Honor, while Ms. Polivy
7 is reading it, I would just like to state that my
8 examination on this and a bunch of other documents will not
9 encompass the entirety of the documents, but just for the
10 sake of the complete record I am distributing copies of the
11 full document so there can be no question about the context.

12 JUDGE CHACHKIN: Well, when you offer them into
13 evidence will you state what specific parts you are
14 offering?

15 MR. COLE: That will be fine.

16 (Witness reads document.)

17 THE WITNESS: I've read it.

18 BY MR. COLE:

19 Q Now, again, directing your attention to page 3
20 where the language says, "The present situation," referring
21 to the RBC applications, "fits into the third category
22 'restricted' proceedings."

23 Do you see that?

24 A Yes, I see that.

25 Q Is that an accurate statement, to the best of your